



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Pitney Bowes
File: B-233100
Date: February 15, 1989

DIGEST

1. Contracting agency acted reasonably in selecting for award an offeror proposing a superior document handling approach over an offeror proposing a less expensive system where the solicitation provided technical factors would be worth 70 percent in the evaluation.
2. Contracting agency may state its minimum needs in terms of performance, rather than design, specifications requiring offerors to use their own inventiveness or ingenuity in devising approaches that will meet the government's requirements; the agency need not specify in the solicitation the manner in which offerors are to fulfill the performance requirements, or advise a technically acceptable offeror during discussions that another approach is superior.

DECISION

Pitney Bowes, Inc. protests the award of a contract to Bell & Howell Company under request for proposals No. IRS-88-021, issued by the Internal Revenue Service (IRS), for multifunctional document handling systems. Pitney Bowes disputes the evaluation of proposals and alleges that the agency failed to conduct meaningful discussions.

We deny the protest.

The solicitation requested proposals for document handling systems capable of (1) separating the individual pages of continuous form, fan-fold computer output, (2) collating both the individual pages produced above and other precut single pages of input into notice sets of up to seven pages, (3) folding the notice sets, (4) diverting and retaining for in-house use copies of certain notice sets, (5) inserting the notice sets, plus up to 10 additional inserts, into

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envelopes with the mailing address visible in the envelope window, (6) sealing the envelopes, and (7) sorting the envelopes by mailing weight. The solicitation noted that the IRS was required to mail a large volume of notices within very short periods of time; the solicitation therefore required that each system be capable of processing a minimum of 3,500 multiple-page sets or 6,000 single-page sets per hour, and of operating continuously without mechanical failure for 2 shifts per day for periods of 3 to 5 days.

The solicitation provided that in the evaluation of proposals up to 30 points would be available for price and 70 points for technical factors. Although the precise weight assigned to each technical factor was not specified in the solicitation, the factors were listed, in descending order of importance, as (1) meeting performance requirements (53.5 available points), (2) technical support (8 points), (3) ease of use (6.5 points), and (4) warranty (2 points).

Timely proposals were received from Pitney Bowes and Bell & Howell. After conducting written discussions with both offerors and viewing on-site demonstrations of their installed machines, the IRS requested the submission of best and final offers (BAFOs). Based upon its evaluation of BAFOs, the agency concluded that one of two designs proposed by Bell & Howell offered superior performance and ease of use. Although Pitney Bowes offered a technically acceptable system at a lower price (\$9,719,840) than Bell & Howell's system (\$12,196,565), given the greater weight accorded technical factors under the solicitation, the technical superiority of the Bell & Howell system (62.65 points versus 51.17 points for Pitney Bowes) resulted in Bell & Howell receiving an overall higher evaluation score (86.56 points) than Pitney Bowes (81.17 points). Upon learning of the resulting award to Bell & Howell, Pitney Bowes filed this protest with our Office.

TECHNICAL EVALUATION

Pitney Bowes contends that several aspects of the technical evaluation were unreasonable and inconsistent with the evaluation criteria. In reviewing Pitney Bowes' arguments, we will not make an independent determination of the merits of technical proposals; rather, we will examine the agency's evaluation to ensure that it was reasonable and consistent with the stated evaluation criteria and applicable statutes and regulations. This standard reflects our view that the evaluation of technical proposals is primarily the responsibility of the contracting agency; the agency is responsible for defining its needs and the best method of

accommodating them, and must bear the burden of any difficulties resulting from a defective evaluation. The protester bears the burden of showing that the evaluation was unreasonable, and the fact that it disagrees with the agency does not render the evaluation unreasonable. Aydin Vector Division of Aydin Corp., B-229659, Mar. 11, 1988, 88-1 CPD ¶ 253.

Ease of Conversion

As indicated above, the IRS determined that the proposed Bell & Howell document handling system offered superior performance and ease of use. For example, the solicitation required that the system allow for "ease of conversion" from processing one type of form to processing another type; it specified that the conversion be made without the need for major mechanical adjustments, defined as adjustments requiring 10 minutes or more. While Bell & Howell proposed to incorporate both continuous-form and cut-sheet feeders into its system, alternating between types of input merely by pressing a single key on the operator's computer keyboard, Pitney Bowes proposed to convert from one form of input to another by manually disconnecting the currently attached feeder module, rolling it away, rolling the other feeder module up to the system, and connecting it. Although the IRS did not challenge Pitney Bowes' assertion in its proposal that this conversion could be accomplished within 10 minutes as required by the solicitation, the agency found that the more rapid conversion possible under the Bell & Howell approach would enhance productivity by reducing system downtime, and thus rated this a relative strength for Bell & Howell.

Pitney Bowes contends that there is little likelihood that the IRS will need to alternate frequently between cut-sheet and continuous-form input and that emphasizing this in the evaluation thus was unwarranted. According to the protester, the majority of the current input comes from cut-sheet printers and the trend is towards the increasing use of laser printers processing cut-sheet material. The agency estimates, however, that 4 to 6 conversions from one form of input to another will occur in each 8-hour shift. It therefore appears that the time saved because of the more rapid conversion possible with the Bell & Howell system may in fact be significant. In any case, since the solicitation specifically required that the document handling system be capable of processing both forms of input and be designed for ease of conversion between the two, we think it was reasonable for the agency to consider the greater ease of use and operational flexibility of the Bell & Howell system in this regard to be a definite strength.

Page Sequence

The solicitation also required that the document handling system have the capability to read computer codes on the documents, recognizing the first, intervening, and last pages of a notice set, and to assemble automatically a complete notice set in numerical order.

Pitney Bowes proposed an approach where the documents would be fed into the system face-up from the bottom of the stack; the last page of the last notice set in a stack would enter first and a stack of sets would enter in reverse, Z-to-A order. Under the proposed Bell & Howell approach, on the other hand, documents would be fed into the system face-down, beginning with the first page of the top notice set, and would be processed in A-to-Z order. Although the Pitney Bowes approach complied with the solicitation requirements, the IRS considered it to be less efficient than the Bell & Howell approach. According to the IRS, a stack of computer generated notices is often delivered to the document handling system with the last notice in the stack incomplete because the printer ran out of paper in the middle of the notice; the operator of the Pitney Bowes system would need to check the bottom of each stack for partial notices, diverting him from maintaining production, in order to assure proper processing of the partial notices. In addition, the agency notes that the Pitney Bowes approach would make it more difficult to keep the retained in-house copies in sequential order (for example, in a job of notices divided into 3 stacks, the in-house copies will be deposited in the hopper in a 3-2-1-6-5-4-9-8-7 order).

Pitney Bowes argues that the system it proposed can in fact feed all materials face-down in A-to-Z order; it notes that commercial literature included in its proposal indicated that its feeder can feed cut-sheets face-up or face-down, and that it demonstrated at one installation a system capable of feeding cut-sheets face-down in A-to-Z order.

Our review of Pitney Bowes' proposal supports the IRS's determination that Pitney Bowes proposed to meet the overall performance requirements of the solicitation by feeding input face-up, from the bottom of the stack, in Z-to-A order; Pitney Bowes described its approach as using equipment that "feeds face-up, this means we would feed from the bottom of the stack." We find its express choice of a face-up approach in its proposal to be especially significant in view of the fact that the face-down cut-sheet feeder it demonstrated "kept jamming," in the words of the IRS observers; this would suggest that Pitney Bowes opted

for the face-up approach to avoid these difficulties. In any case, neither in its proposal nor at the demonstration did Pitney Bowes document a capability to feed continuous-form material face-down in A-to-Z order.

The burden of preparing an adequate proposal rests with the offeror, see Supreme Automation Corp., et al., B-224158 et al., July 23, 1987, 87-1 CPD ¶ 83; where the offeror explicitly proposes one approach to satisfy the solicitation requirements, we do not believe the contracting agency is required to speculate as to whether the offeror or the proposed system is also capable of meeting the requirements--including those for reliability and production--through another approach. Accordingly, we find no basis to question the IRS's determination that Pitney Bowes' proposed approach to feeding input into the system, although satisfactory, nevertheless was less desirable than the Bell & Howell approach.

Page Cutting

The solicitation as issued further required that continuous-form, fan-fold input be separated into individual pages by cutting. The solicitation was subsequently amended to convert this design specification into the more general performance requirement that the pages be separated by a means that does not cause the detachable stub portion of any page to become detached. Although the IRS did not view as unacceptable Pitney Bowes' proposal to separate pages by bursting the pages apart along perforations between the pages, it concluded that Bell & Howell's approach of separating pages by cutting was less likely to detach the detachable stubs.

Pitney Bowes maintains that separation by bursting is faster and more efficient than separation by cutting, and does not result in separation of the stubs. In any case, Pitney Bowes alleges that it also manufactures equipment that separates sheets by cutting and was prepared to demonstrate such equipment at one of the demonstrations of installed systems had the agency not limited that demonstration to 1 day.

Based on the record before us, we cannot conclude that the agency lacked a reasonable basis for finding separation by cutting to be superior because it is less likely to result in the unwanted detachment of stubs in the notices. Although Pitney Bowes disagrees, the IRS's position does not seem unreasonable on its face; pulling pages apart along a perforation seems more likely to also pull off the

stub than cutting the pages with no pulling. In any case, Pitney Bowes has presented no clear evidence that the agency's position is incorrect and the protester's mere disagreement with the IRS does not render this aspect of the evaluation unreasonable. See Aydin Vector Division of Aydin Corp., B-229659, supra. With respect to the demonstration for which only 1 day was allowed, if Pitney Bowes believed that the agency had allowed insufficient time for the demonstration, it was required to take issue with the IRS at that time; the protester cannot wait to complain until months after the source selection decision has been made, when the alleged deficiency no longer can be readily corrected. See Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1988).

Stacking

The solicitation required the document handling system to sort the sealed envelopes by weight, and then stack them compactly and with a common orientation so as to permit easy removal. The agency found that, as shown in an on-site demonstration, Pitney Bowes' approach of stacking envelopes flat, or horizontally ("shingled" stacking), results in a less compact stack than Bell & Howell's approach of stacking envelopes vertically, on-edge; according to the agency, stacking envelopes flat also is more likely to result in misalignment of the envelopes and consequent additional work for the system operator.

Pitney Bowes argues that its stacker is superior because, as a result of using two levels of stacking, the stacks are shorter than most on-edge stacks and therefore easier to unload; Bell & Howell maintains that its on-edge stacking allows for easier unloading than Pitney Bowes' multiple tier stacking.

Whether or not Pitney Bowes is correct on this point, Pitney Bowes has not refuted the agency's determination that an on-edge stacker is superior because it is more likely to orient the envelopes uniformly as required by the solicitation. We thus have no reason to question the IRS's conclusion regarding this requirement.

Ruggedness

Based on observation of the on-site demonstrations, the agency found the system proposed by Pitney Bowes to be of light-weight construction, and less rugged in design and materials than the Bell & Howell system. For example, the Pitney Bowes system uses rubber rollers rather than the steel rollers used in the Bell & Howell system to fold

documents; the agency reports that its prior experience with both rubber and steel rollers shows that rubber rollers need to be replaced three times more often than steel rollers, are often damaged by staples in the documents, and tend to harden because of exposure to chemicals in the printing ink. Although Pitney Bowes contends that rubber rollers are preferable because they do not need to be adjusted for different thicknesses of paper (as a result of the resiliency of rubber), the protester has not attempted to explain why the agency's concerns with respect to the maintainability of rubber rollers were unreasonable. Moreover, Pitney Bowes does not refute the agency's overall observation that Bell & Howell proposed a more rugged design. In view of the importance the solicitation placed upon reliable operation, the IRS reasonably preferred the approach requiring less maintenance.

Evaluation Under Incorrect Factor

Pitney Bowes argues that the perceived inferiority of its approach to conversion between cut-sheet and continuous-form material, face-up feeding, and envelope stacking concerns the operational flexibility of the document handling system, and therefore should have been evaluated under the less important ease-of-use evaluation factor rather than under the meeting-performance-requirements factor.

Although we agree that the proposed approaches to performing these required functions affect ease of use, we do not believe that the agency was thereby precluded from also considering these factors under the evaluation criterion for meeting performance requirements. We find reasonable the agency's position that since a system's ability to minimize the delay in changing input modes, eliminate the need to check incoming stacks for partial notices, and stack envelopes with a common orientation, all affect the number of production interruptions, these factors reasonably can be considered related to ensuring an offeror's ability to meet the performance requirements. See Iriquois Research Institute, 55 Comp. Gen. 787 (1976), 76-1 CPD ¶ 123 (not improper to penalize an offeror in each evaluation category affected by a particular proposal deficiency); Burns and Roe Tennessee, Inc., B-189462, Aug. 3, 1979, 79-2 CPD ¶ 77.

Mandatory Requirements--Bell & Howell's Compliance

Pitney Bowes, which has not been provided access to Bell & Howell's proposal, argues that currently available Bell & Howell equipment cannot comply with all of the mandatory solicitation requirements. Moreover, to the extent that Bell & Howell may have proposed equipment not currently

available, the protester contends that this would violate the solicitation requirement that components of the proposed system be "off-the-shelf," that is, equipment that "has been manufactured, offered to the public, and used in the marketplace, thus demonstrating it as a 'proven' technology."

After reviewing Pitney Bowes' allegations in this regard, we find no basis upon which to disturb the IRS's determination that Bell & Howell submitted information sufficient to establish the technical acceptability of its proposal. See generally Everpure, Inc., B-231732, Sept. 13, 1988, 88-2 CPD ¶ 235 (determination of technical acceptability will not be disturbed unless shown to be unreasonable).

For example, Pitney Bowes questions whether the proposed Bell & Howell system will meet the solicitation production requirements (3,500 multiple-page sets or 6,000 single-page sets); Pitney Bowes claims that the actual production rate of Bell & Howell inserters is only 75 percent of the rated cycling speed and thus is likely to be less than Pitney Bowes' speed, which is in excess of 6,000 insertions per hour. In fact, however, Bell & Howell proposed to meet the solicitation production requirements and submitted descriptive literature in support of a claimed cycling speed of 10,000 insertions per hour.

Pitney Bowes also questions the compliance of the Bell & Howell system with safety requirements. In this regard, the solicitation required that the system be designed so that the operator is protected from moving parts; in particular, it required that interlock devices be incorporated on doors and covers and that emergency off switches be provided. Bell & Howell, however, proposed not only the required interlock devices and emergency stop switches, but also a light curtain of photoelectric light beams to protect the operator from moving parts by automatically turning the system off if a beam is penetrated.

In addition, Pitney Bowes questions whether Bell & Howell met the solicitation requirement that the noise level near the document handling system not exceed 80 decibels when the system is in operation. Bell & Howell, however, proposed to comply with this limit and described in its proposal how it would reduce noise levels through use of a heavy cast iron frame to "absorb" vibrations, a quieter drive motor, and a quieter belt-driven folder.

Pitney Bowes alleges that any required adjustment to the position of the Bell & Howell sensor for reading computer codes on the documents will take longer than the 10 minutes permitted by the solicitation because the Bell & Howell

sensor is not normally adjustable up and down by the operator without the use of a special tool. Bell & Howell, however, proposed to accomplish any required adjustments within 2 to 3 minutes by aligning the sensor vertically through use of a thumbwheel, and horizontally by use of a thumbscrew.

Pitney Bowes questions whether Bell & Howell met the solicitation requirement that the system be capable of detecting and alerting the operator to misfeeds or other conditions that could result in the intermixing of notices. Bell & Howell, however, proposed a system equipped with sensors that detect misfeeds and jams, stop the system before mutilation of forms occurs, and reports these problems by means of indicator lights and notices on the operator's computer screen.

Bell & Howell proposed to meet these and the other solicitation requirements by using "off-the-shelf" components that have been "manufactured, offered, sold and installed in the marketplace . . . and [are] being used at numerous customer sites," and submitted literature describing the system it proposed to supply. We thus find no basis for Pitney Bowes' assertion that Bell & Howell's proposed system cannot satisfy mandatory requirements or the "off-the-shelf" requirement.

Although the discussion above encompasses only a few of the many objections raised by Pitney Bowes with respect to the evaluation of proposals, we have reviewed all of the allegations and discussed the most significant points of contention. Based upon the record before us, we cannot conclude that the IRS acted unreasonably in finding the Bell & Howell proposal to be technically superior.

NOTICE OF SUPERIOR APPROACH

Pitney Bowes alleges that the IRS conducted the evaluation pursuant to unstated, restrictive evaluation guidelines that are inconsistent with the stated evaluation criteria. In this regard, Pitney Bowes complains that the source selection plan, which was not disclosed to offerors, favors the Bell & Howell approach. For example, the protester notes that the internal evaluation guidelines express a preference for separation by cutting because of the agency's concern that separation by bursting may result in the unwanted detaching of stubs, and a preference for stackers that retain envelopes on-edge, so as to permit their expeditious removal, over stackers in which the envelopes are placed loosely on conveyor belts. The guidelines also indicate a preference for a "rugged design," equipment that

reads computer codes on the first page of a set, and for A-to-Z processing of notices. Pitney Bowes alleges that the agency failed to advise offerors of these views during discussions and that this constituted a failure to conduct meaningful discussions. According to the protester, had it known of the agency's views, it could have offered the preferred equipment.

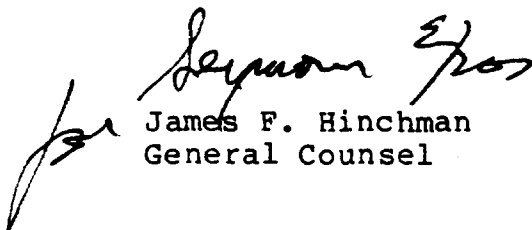
In order to ensure that specifications are stated in terms that will permit the broadest field of competition to meet the minimum needs of the government, agencies properly may state requirements in terms of performance rather than design specifications, requiring offerors to use their own inventiveness and ingenuity in devising approaches that will best meet the government's performance requirements. See Imperial Schrade Corp., B-223527.2, Mar. 6, 1987, 87-1 CPD ¶ 254. The specifications here were primarily stated in terms of performance requirements, and the evaluation guidelines did not establish unstated minimum requirements in addition to these requirements; Pitney Bowes' proposal was not found to be technically unacceptable because of its system's departure from certain of the guidelines. Rather, the guidelines merely reflected what the agency, based on prior experience, reasonably viewed to be superior technical approaches to satisfying certain performance requirements; it was left to any offeror to put together an integrated cost and technical approach that, as a whole, would be superior to another system meeting one or more of the guideline preferences. Based on what we have found to be a reasonable, independent evaluation of proposals, Pitney Bowes' system simply was found to be less effective in meeting the solicitation performance requirements.

We see no reason why the IRS should have been required to disclose the evaluation guidelines instead of requiring offerors to use their own inventiveness and ingenuity in devising approaches that will meet the government's requirements. See generally Mark Dunning Industries, Inc., B-230058, Apr. 12, 1988, 88-1 CPD ¶ 36. Again, where a solicitation allows for alternative approaches to meeting a performance requirement, the manner in which offerors are to fulfill the requirement need not be specified in the solicitation, see Personnel Decision Research Institute, B-225357.2, Mar. 10, 1987, 87-1 CPD ¶ 270, nor must the agency advise a technically acceptable offeror during discussions that another approach is superior. See generally Loral Terracom, et al., 66 Comp. Gen. 272 (1987), 87-1 CPD ¶ 182.

CONCLUSION

Notwithstanding the substantially lower price proposed by Pitney Bowes, we find that the IRS had a reasonable basis for selecting Bell & Howell's document handling system. As it made clear in the solicitation, the agency needs a machine capable of operating continuously without mechanical failure to process a large volume of mail within very short periods of time; the agency accordingly advised potential offerors that price would be worth only 30 percent in the evaluation of proposals. Consistent with its need for the system most capable of meeting the challenging demands periodically placed on the agency, the IRS selected a system (Bell & Howell's) which offered the reliability of a more rugged design than the relatively lightweight construction of its competitor, one in which the expected 4 to 6 conversions from one form of input to another in each 8-hour shift could be accomplished rapidly, apparently in seconds rather than in minutes, and one in which production interruptions are further limited by eliminating the need to check incoming stacks for partial notices and by facilitating the removal of finished envelopes. It is clear from our review of the record that the choice of Bell & Howell resulted not from an abstract preference for a particular system, but instead reflected the agency's need for the most productive, efficient and reliable system available. This selection was consistent with the emphasis in the evaluation criteria on technical merit and therefore is unobjectionable.

The protest is denied.



James F. Hinchman
General Counsel